Case3:11-cv-04494-WHO Document286 Filed04/24/13 Page1 of 3

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| 16 | and En Escrit scottrato, Etb. | |
| 17 | UNITED STATES DI | |
| 18 | NORTHERN DISTRICT OF CALIFORNIA SAN JOSE | |
| 19 | | |
| 20 | LIFESCAN, INC. and LIFESCAN SCOTLAND, LTD., | Case No. CV11-04494-EJD (PSG) |
| 21 | Plaintiffs, | LIFES CAN'S OPPOSITION TO DEFENDANTS' EX PARTE |
| 22 | v. | APPLICATION FOR OSC RE CONTEMPT AND FOR FURTHER |
| 23 | SHASTA TECHNOLOGIES, LLC, DECISION DIAGNOSTICS CORP., PHARM ATECH | RELIEF AND SANCTIONS; |
| 24 | SOLUTIONS, INC., and CONDUCTIVE TECHNOLOGIES, INC., | MEMORANDUM OF POINTS AND AUTHORITIES |
| 25 | Defendants. | |
| 26 | | J |
| 27 | | |
| 28 | | LIFESCAN'S OPP'N TO MOTION TO EX PARTE |

6120127v.1

CASE NO. CV11-04494-EJD (PSG)

Case3:11-cv-04494-WHO Document286 Filed04/24/13 Page2 of 3

| 1 | LifeScan objects to Defendants' motion as it fails to conform to any of the | | |
|----|--|--|--|
| 2 | | | |
| | requirements for <i>ex parte</i> relief. As this Court has noted in denying previous inappropriate <i>ex parte</i> | | |
| 3 | requests, | | |
| 4 | Civil Local Rule 7-10 states: | | |
| 5 | Unless otherwise ordered by the assigned Judge, a party may file an ex parte motion, that is, a motion filed without notice to opposing party, | | |
| 6 | only if a statute, Federal Rule, local rule or Standing Order authorizes the filing of an ex parte motion in the circumstances and the party has | | |
| 7 | complied with the applicable provisions allowing the party to approach the Court on an exparte basis. <i>The motion must include a citation to</i> | | |
| 8 | the statute, rule or order which permits the use of an ex parte motion to obtain the relief sought. | | |
| 9 | D.E. 151 (emphasis in original). Defendants have identified no statute, Federal Rule, local rule, or | | |
| 10 | Standing Order that authorizes the filing of an ex parte motion. Their application should accordingly | | |
| 11 | be denied. If Defendants file a proper motion, LifeScan will respond appropriately. | | |
| 12 | | | |
| 13 | Dated: April 24, 2013 | | |
| 14 | | | |
| 15 | PATTERSON BELKNAP WEBB & TYLER LLP | | |
| 16 | By: /s/ Gregory L. Diskant | | |
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| 28 | 2 LIFESCAN'S OPP'N TO MOTION TO EX PARTE APP CASE NO. CV11-04494-EJD (PSG) | | |

6120127v.1

Case3:11-cv-04494-WHO Document286 Filed04/24/13 Page3 of 3

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| 7 | LifeScan Scotland, Ltd. |
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| 28 | 3 LIFESCAN'S OPP'N TO MOTION TO EX PARTE APP |